

RESUMÉ AJ

„Decision-making practice of the Office for the Protection of Competition in cases of proving qualification requirements in public tenders“

The annual report of the Office for the Protection of Competition for the year 2014 comes to a conclusion that the most frequent mistake of a contracting authority is stipulation of disproportional (discriminating) qualification requirements.

The objective of my paper is shedding light on selected contentious areas that are dealt with by the Office for the Protection of Competition, by regional courts or by the Supreme Administrative Court respectively, thus illustrating the most frequent mistakes committed by contracting authorities when stipulating qualification requirements.

The paper is structured into several chapters for addressing the selected topic.

The first part of the paper introduces the basic concepts and the institute of public tenders closely related to subsequent setting of qualification requirements while also referring to elementary judiciary practice.

The subsequent chapters describe particular categories of qualification requirements like elementary qualification requirements, vocational qualification requirements, economical and financial qualification requirements, as well as technical qualification requirements. Each chapter showcases elementary judiciary practice thus illustrating some common mistakes made by contracting authorities when stipulating qualification requirements in public tenders.

The last two chapters of the paper have the ambition of clarifying the process of qualification assessment and the process of proving qualification requirements met within the framework of sublimit public tenders with regard to the existing judiciary practice.

At the very conclusion of the paper I mention the most frequent cause of mistakes made by the contracting authorities when setting qualification requirements. On my opinion the very reason is that the contracting authorities are not aware of the elementary principles upon which the whole public tendering process is based, e.g. equal treatment, non-discrimination and transparency. I strived to make that clue

obvious throughout all chapters of the paper, whether dealing with demonstration of elementary qualification requirements, vocational qualification requirements or technical qualification requirements, since the whole process of public tendering is based on their strict observation on the first place.